

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JAMES GREGORY MARLOW,

Plaintiff,

v.

VINCENT S. CULLEN, et al.,

Defendants.

No. C 10-01417 JF (PR)

ORDER EXTENDING TIME FOR
DEFENDANT TO FILE MOTION TO
DISMISS OR NOTICE THAT MOTION
IS UNWARRANTED

Plaintiff, a California prisoner proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983. Plaintiff filed a motion for leave to proceed in forma pauperis (“IFP”). (Docket No. 3.) On August 25, 2010, the Court ordered Defendant Warden Vincent S. Cullen to address whether Plaintiff’s motion should be denied pursuant to 28 U.S.C. § 1915(g) by filing a motion to dismiss or a notice that such motion is unwarranted. (Docket No. 22.) Defendant was directed to file a response within forty-five days of the date he is served with the court order. (Id. at 4.) The time has long since passed, and Defendant has not responded.

In the interest of justice, the Court will extend the time for Defendant to respond. The clerk of the Court shall issue summons and the United States Marshal shall serve,

1 without prepayment of fees, a copy of the complaint, all attachments thereto, a copy of
2 the court order filed on August 25, 2010, (Docket No. 22), and a copy of this order upon
3 **Defendant Warden Vincent S. Cullen at San Quentin State Prison.** The Clerk shall
4 also send a courtesy copy of all of the above to the Attorney General's Office.

5 Defendant shall file with the Court and serve upon Plaintiff, within **forty-five (45)**
6 **days** of the date he is served with this order, a motion to dismiss the complaint pursuant
7 to 28 U.S.C. § 1915(g), or a notice that Defendant is of the opinion that a motion to
8 dismiss is unwarranted.

9 All remaining provisions of the court's August 25, 2010 Order shall remain in
10 effect, and briefing shall proceed in accordance with the schedule set forth therein.

11 IT IS SO ORDERED.

12 DATED: 3/9/11



JEREMY FOGEL
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JAMES G. MARLOW,
Plaintiff,

Case Number: CV10-01417 JF

CERTIFICATE OF SERVICE

v.

VINCENT S. CULLEN, et al.,
Defendants.

_____/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 3/11/11, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

James Gregory Marlow E-32700
CSP-San Quentin
CA State Prison at San Quentin
San Quentin, CA 94974

Dated: 3/11/11

Richard W. Wieking, Clerk